No. 85-1290

Supreme Court, U.S.
FILED
JAN 29 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

October Term, 1985

STANLEY GLICKSTEIN,

Petitioner

v.

COMMONWEALTH OF PENNSYLVANIA

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

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Counsel for Petitioner Glickstein

QUESTIONS PRESENTED

1. Where the trial court failed to properly charge the jury as to defendant's theory of the case and also failed to properly answer the jury's questions to the court during its deliberation evidencing the jury's confusion, does this constitute a violation of the Sixth Amendment right to a fair jury trial and the Fourteenth Amendment Due Process right of having the prosecution prove each and every element of the crime beyond a reasonable doubt?

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

TABLE OF AUTHORITIES .....

OPINIONS BELOW 2

JURISDICTION 2

CONSTITUTIONAL PROVISIONS INVOLVED..... 3

STATEMENT OF THE CASE 4

REASONS FOR GRANTING THE WRIT..... 8

APPENDIX A
Supreme Court of Pennsylvania's denial
of Petition for allowance of appeal A1

APPENDIX B
Superior Court of Pennsylvania's
Affirmance of Conviction A2

APPENDIX C
Opinion of Trial Court A5

TABLE OF AUTHORITIES

	Page
Bollenbach v. United States, 326 U.S. 607 (1946)	10
Carter v. Kentucky, 450 U.S. 288 (1981)	8,9
Coffin v. United States, 156 U.S. 432 (1895)	8
Commonwealth v. Francis, 201 Pa. Super. 313, 191 A2d 884 (1963), *cert. denied.*, 375 U.S. 985	10
Douglas v. Alabama, 380 U.S. 415 (1965)	8
Gregg v. Georgia, 428 U.S. 153 (1976)	11
In re Winship, 397 U.S. 358 (1970)	8
Lakeside v. Oregon, 435 U.S. 333 (1978)	9
Sandstrom v. Montana, 442 U.S. 510 (1979)	8
The Schooner Hoppet and Cargo v. U.S., 11 U.S. (7 Cranch) 389, 3 L.Ed. 380 (1813)	8,9

Constitutional Provisions

Sixth Amendment	2,8,10
Fourteenth Amendment	2,8,10

Miscellaneous

28 U.S.C. §1254	2
18 Pa. C.S. §4701	4

OPINIONS BELOW

On December 4, 1985, the Supreme Court of Pennsylvania entered an Order denying a Petition for Allowance of Appeal, which Order has not been officially reported but is reproduced in Appendix A, *infra*, page A1. This Order affirmed the decision of the Superior Court of Pennsylvania, reproduced in Appendix B, *infra*, affirming the judgment of conviction and sentence entered by the Philadelphia Court of Common Pleas on December 12, 1983. On that date, the Honorable John A. Cherry, Judge of that Court, had sentenced Petitioner to a term of imprisonment of 11½ to 23 months of imprisonment and fined $5,000.00. Judge Cherry filed an Opinion denying Post-trial Motions, which is reproduced in relevant part in Appendix C., *infra*.

JURISDICTION

The Order of the Supreme Court of Pennsylvania (Appendix C, *infra*, page A1) affirming the judgment of the Superior Court was entered on December 4, 1985. This Court's jurisdiction is invoked under 28 U.S.C. §1254 (1).

CONSTITUTIONAL PROVISIONS INVOLVED

The U.S. Constitution provides in pertinent part:

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a . . . . . trial, by an impartial jury . . .

AMENDMENT XIV

. . . nor shall any State deprive any person of life, liberty, or property, without due process of law . . . .

STATEMENT OF THE CASE

Defendant Stanley Glickstein was arrested on September 23, 1982, and charged with Bribery in Official and Political Matters, Commercial Bribery and Breach of Duty to Act Disinterestedly.

On September 30, 1982, after a preliminary hearing before the Honorable Myer C. Rose, the charges of Commercial Bribery and Breach of Duty to Act Disinterestedly were dismissed but a prima facie case was found as to the remaining charge of Bribery pursuant to 18 Pa. C.S. §4701.

On May 9, 1983, trial by jury was commenced before the Honorable John A. Cherry, and the defendant was convicted on the charge of Bribery in Official and Political Matters on May 12, 1983. The defendant was then sentenced to an 11½ to 23 month sentence of imprisonment and fined $5,000.00.

After a timely appeal was filed, the Superior Court affirmed the trial court in No. 181 Philadelphia 1984. The Supreme Court of Pennsylvania denied a Petition for Allowance of Appeal on December 4, 1985.

Petitioner Stanley Glickstein, was an Assistant Chief Crier with the Philadelphia Court of Common Pleas. His superior was Wayne Ramsay, the Chief Crier, who was charged with the responsibility of assigning Court Criers and Court Officers to the various courtrooms. (R 19a) According to Mr. Ramsay, Mr. Glickstein's duties included supervising post-trial motion and probation matters in the afternoons, the weekly sheriff's sheets and the 1801 Vine Street Status Reports. [1] (R. 20a)

Mr. Ramsay testified that on the Thursday or Friday before Labor Day, 1982, the Petitioner informed him that one Velva Daniels wanted a transfer to City Hall and further that he agreed to transfer her. (R. 20a) He also testified that he would not have transferred Mrs. Daniels without Petitioner's recommendation. (R. 24a)

---

1. In the Philadelphia Court System, Juvenile and Family Court matters are heard at 1801 Vine Street.

Velva Daniels was a Court Officer for the Philadelphia Court of Common Pleas assigned to the Family Court Division at 1801 Vine Street. (R. 36a) The Petitioner had previously been her supervisor at 1801 Vine Street back in 1980 before he was transferred to his present position at City Hall. (R. 36a) Mrs. Daniels desired to be transferred from 1801 Vine Street to City Hall in order to earn more money through overtime. (R. 37a) Just prior to Labor Day in 1982, Mrs. Daniels made a telephone call to Mr. Ramsay at City Hall for the purpose of requesting a transfer to City Hall. (R. 38a) Mr. Ramsay's Office was in Room 729, and the Petitioner's office was in Room 727. (R. 21a). The Petitioner answered the phone and, after hearing her request, asked for her home telephone number. (R. 399).

Mrs. Daniels testified that the Petitioner telephoned her at home prior to Labor Day and requested $200.00 in order to transfer her to City Hall. (R.40-41a). She further testified that on the day after Labor Day she was transferred to City Hall at which time the Petitioner requested $300.00 for the transfer, which she agreed to pay. (R. 42-43a). On Friday, September 10, 1982, Mrs. Daniels gave Petitioner a check for $100.00 which she dated September 9, 1982. (R44a). She agreed to pay him $50.00 the next week, $75.00 the following week and would owe him the balance. (R. 45a). Mrs. Daniels stated that the only reason she paid Petitioner anything at all, since she was already transferred, was "because I figured if I didn't give him the money he would have me transferred back over to 1801 Vine." (R. 46a, 56a)

On or about September 14, 1982, Mrs. Daniels went to Wayne Ramsay's office and told him that the Petitioner wanted $300.00 for the transfer. (R. 23-24a, 47a). Mrs. Daniels was subsequently interviewed by the Philadelphia District Attorney's Office. (R. 489). She then agreed to telephone Mr. Glickstein at his home on Friday, September 17, 1982 and consented to the recording of the conversation. (R. 49a). She was instructed to try and get the price reduced, and she informed Petitioner she had $50.00 to give him the following Monday. (R. 50a). On Monday, September 20, 1982, Mrs. Daniels was given $50.00 in ten

dollar bills by Detective Feeney of the District Attorney's Office. (R. 52a). She was then given $100.00 in twenty dollar bills, which had been sprayed with a green dye and which she later gave to Petitioner in the hallway outside of her courtroom. (R. 53a, 61a). On both of these occasions, Mrs. Daniels carried a Nagra tape recorder in her pocketbook, but the tapes were inaudible. (R. 60a, 62a). Later that afternoon, Detective Feeney went to City Hall and requested that Petitioner accompany him to the District Attorney's Office. (R. 62a). One Hundred Fifty Dollars was recovered from the defendant voluntarily, and green dye was found on his hands. (R. 63-64a). The Petitioner informed Detective Feeney that he received $250.00 from Mrs. Daniels, but that he did not solicit the money from her, rather she offered it to him in gratitude for helping with her transfer. (R. 66-67a).

At the conclusion of the evidentiary phase of the trial, the court considered the defense counsel's requested points for charge. The defendant's first requested point, which was an outline of the defense theory of the case, read as follows:

> "The defendant is charged with bribery in official and political matters. He is on trial for that charge alone. If you find that he committed one or more other crimes but not the one that he is on trial for, you must find him not guilty." (R 75a).

The Commonwealth opposed the requested charge, and defense counsel then requested the court to charge on the closely related offenses of commercial bribery and extortion. (R. 76a). After some discussion, the court decided that a charge as to commercial bribery would be appropriate, but not one for extortion (R. 79a). The court, however, then refused to instruct the jury on both bribery and commercial bribery as requested by defense counsel. (R. 82a). The court again denied defense counsel's requested first point and granted defense counsel an exception. (R. 83a).

During the course of their deliberations, the jury asked several questions, the relevant questions being, as follows:

> "'Is a person C permitted legally to offer to person D

a gift in gratitutde for services rendered in political matters or official?

***

Is a person D permitted legally to accept a gift offered in gratitude for services rendered as long as not solicited?

***

If A pressures B into delivering money, is A guilty of bribery or extortion?

***

If A is guilty of extortion . . . and also accepts money, is A guilty of bribery also?

***

Is the statement on which we are to vote "guilty" or "not guilty" meant to be the definition of bribery? That is, is bribery defined as "soliciting or agreeing to accept or accepting" money for "official and political matters"? Is it possible to receive money after the services are rendered in gratitude as a gift"? (R. 105-108a)

The trial judge's response was merely to reiterate the the original instructions and, thus, did not address the specific concerns and questions of the jury.

REASONS FOR GRANTING THE WRIT

The Trial Court did not adequately instruct the jury and then compounded this eror when it failed to properly answer questions propounded by the jury.

It is submitted to this Court that the trial court's failure to charge defendant's first point for charge, which essentially stated the defendant's theory of defense, directed a verdict of guilty thereby denying Petitioner's Sixth Amendment right to a trial by jury. In addition, this failure violated Petitioner's Due Process right under the Fourteenth Amendment of having each and every element of the crime proved beyond a reasonable doubt. *Sandstrom v. Montana,* 442 U.S. 510 (1979). Finally, the failure to clear up jury confusion compounded the problem.

This Court has long held that a defendant cannot be convicted of being evil, for committing offenses other than the crime charged. Thus, Chief Justice Marshall stated many years ago in *The Schooner Hoppet and Cargo v. United States*, 11 U.S. (7 Cranch) 389, 394, 3 L.Ed. 380 (1813):

> "The rule that a man shall not be charged with one crime and convicted of another may sometimes cover the real guilt, but its observance is essential to the preservation of innocence."

In addition, this Court long ago noted that at the core of our legal system lies the ancient principle of the presumption of innocence in favor of the defendant. *Coffin v. United States.*, 156 U.S. 432, 453 (1895). Therefore, the requirement has evolved that the prosecution must prove each and every element of an offense beyond a reasonable doubt. *Sandstrom, supra; In re Winship,* 397 U.S. 358, 364 (1970).

This court in *Douglas v. Alabama,* 380 U.S. 415, 422 (1965), held that a defendant has a substantive right to jury guidance. It cannot be denied that defendant invoked his right. This right of jury guidance merely underscores the importance of the trial judge's role in the fair administration of justice. This Court summed up that duty in *Carter v. Kentucky,* 450 U.S. 288 (1981):

> "We have repeatedly recognized that 'instructing a jury in the basic constitutional principles that govern the administration of criminal justice' . . . is often necessary. Jurors are not experts in legal principles; to function effectively, and justly, they must be accurately instructed in the law." Id. at 302 (cites and footnotes omitted).

The trial judge, therefore, must use the jury instructions to explain to the jury important legal concepts applicable to the facts of the case. These are, of course, given for the guidance of the jury and certainly must not be misunderstood if the judicial system is to operate fairly Id. at 299,citing *Lakeside v. Oregon*, 435 U.S. 333 (1978).

In the case at bar, Judge Cherry's instructions failed to adequately instruct the jury in the law applicable to the case, thus leaving the jury unable to properly comprehend the factual questions it was to decide. Otherwise, the jury would not have had to ask the multitude of questions which it did, evidencing its confusion.

During the trial there was considerable evidence of commercial bribery as well as extortion. Without the appropriate charge, counsel was unable to place his theoy of the case before the jury without subjecting the defendant to exposure to extortion or commercial bribery, a charge dismissed at the preliminary hearing. Since a defendant may not be convicted of a crime unless so charged, the trial court erred in refusing to charge the jury on extortion and commercial bribery as well as defense counsel's point one and, thus, forced the jury to convict on bribery even though defendant may instead have been guilty of an uncharged offense or no offense at all. See, *The Schooner Hoppet and Cargo, supra.* Only this Court can correct the error of the courts below.

In addition, during the course of their deliberations, the jury asked the series of questions listed above. Instead of directly addressing the specific concerns and questions of the jury, the trial judge basically reiterated its original instructions. The failure of the trial court to clear up the confusion of the jury was

an abuse of discretion prejuducing the defendant and compounding the Sixth and Fourteenth Amendments violations referred to above.

Justice Frankfurter long ago noted that:

> "Discharge of a jury's responsibility for drawing appropriate conclusions from the testimony depended on discharge of the judge's responsibility to give the jury the required guidance by a lucid statement of the relevant legal criteria. When a jury makes explicit its difficulties, a trial judge should clear them away with concrete accuracy." *Bollenbach v. United States,* 326 U.S. 607, 612-613 (1946)

During the trial there was considerable evidence of commercial bribery as well as extortion. Without the appropriate charge, counsel was unable to place his theory of the case before the jury without subjecting the defendant to exposure to extortion or commercial bribery, a charge dismissed at the preliminary hearing. Since a defendant may not be convicted of a crime unless so charged, the trial court erred in refusing to charge the jury on extortion and commercial bribery as well as defense counsel's point one and, thus, forced the jury to convict on bribery even though defendant may instead have been guilty of an uncharged offense or no offense at all. *The Schooner Hoppet and Cargo, supra.* Only this Court can correct the error of the courts below.

The Court did not clearly instruct the jury that it is not a crime for the defendant to accept a gift proferred after the performance of the act of transfer, if he did not agree to accept the money prior thereto as a consideration for acting to effectuate the transfer. See *Commonwealth v. Francis,* 201 Pa. Super. 313, 191, A2d 884 (1963) *cert. den.* 375 U.S. 985. In addition, the Court did not state that if the Petitioner had solicited funds after the transfer was effected, this might be another crime, but not bribery.

It is significant to note that the third and fourth questions posed by the jury dealt with extortion even though defense counsel never used the word before the jury. (R. 99a). Even the trial judge expressed surprise at the jury's inquiring when he stated:

> "This one will floor you. You won't know what to think." (R 100a)

However. Judge Cherry totally failed to explain these issues to the jury after they expressed their confusion. He should have advised the jury that the sole charge was bribery. and if they found defendant "pressured" the alleged accomplice into paying money. they should find that the crime of extortion was established not bribery. and further that they must acquit the defendant. And. most importantly. that both bribery and extortion require a solicitation. but extortion involves the additional element of a threat.

The trial judge failed to advise the jury that the defendant must have a mens rea. a specific intent to accept or to agree to accept the money as part of an agreement that the payment was in exchange for his obtaining the transfer of Velva Daniels. It is the defendant's state of mind that is the determining factor. and not Velva Daniels' state of mind. If Velva Daniels requested the transfer. and after the transfer she made the payments because she believed it was required by virtue of past practices. to be paid. or if the defendant did not solicit such payment prior to the transfer. the jury must acquit. In other words. it matters not whether Velva Daniels made the payment as a gift out of gratitude. or grudgingly and resentfully. believing it was required. If it was not a part of an actual agreement made with the defendant prior to the transfer. it is not a bribe. If it be another crime. not charged. an acquittal is required.

This Court has explicitly stated that when erroneous instructions are given. retrial is often required. It is a hallmark of our legal system that juries be carefully and adequately guided in their deliberations. *Gregg v. Georgia*, 428 U.S. 153. 192-93 (1976). For the foregoing reasons. a new trial should be granted.

The failure to properly instruct and guide the jury in this case. especially after the jury had stated its confusion and. on its own. injected several issues such as extortion in its deliberations. was a significant departure from the accepted and usual course of judicial proceedings and requires this Court's guidance in this most important matter in the administration of justice.

CONCLUSION

For all the foregoing reasons, this Petition for Writ of Certiorari should be granted as to the question presented herein.

Respectfully Submitted,

Mark D. Schaffer
Counsel for Petitioner

APPENDIX A

Supreme Court of Pennsylvania

MARLENE F. LACHMAN, Esq.
PROTHONOTARY
PATRICK TASSOS
DEPUTY PROTHONOTARY

Eastern District

488 CITY HALL
PHILADELPHIA, PA 19107
(215) 496-4600

December 5, 1985

Mark D. Schaffer, Esq.
Suite 300
215 South Broad Street
Philadelphia, Pennsylvania 19107

RE: Commonwealth of Pennsylvania vs. Stanley Glickstein
No. 931 E.D. Allocatur Docket 1985

Dear Mr. Schaffer:

This is to advise you that the following Order has been endorsed on your Petition for Allowance of Appeal, filed in the above captioned matter:

"December 4, 1985.

Petition Denied.

Per Curiam."

Very truly yours,

Patrick Tassos

PATRICK TASSOS
Deputy Prothonotary

/aw
cc: Robert B. Lawler, Esq.

APPENDIX B

IN THE
SUPERIOR COURT OF PENNSYLVANIA

No. 00181 Phila., 1984

COMMONWEALTH OF PENNSYLVANIA

v.

STANLEY R. GLICKSTEIN,
Appellant

JUDGMENT

On Consideration Whereof, it is now here ordered and adjudged by this Court that the judgment of the Court of Common Pleas of Philadelphia County be, and the same is hereby affirmed.

By the Court:

J. Haniel Henry
Prothonotary

Dated: July 5, 1985

IN THE
SUPERIOR COURT OF PENNSYLVANIA

No. 00181 Phila., 1984

COMMONWEALTH OF PENNSYLVANIA

v.

STANLEY R. GLICKSTEIN,

Appellant

Appeal from the Judgmemt of Sentence of December 27, 1983 in the Court of Common Pleas of Philadelphia County, Criminal Division, at No. 82-10-0198.

BEFORE: SPAETH, P.J.,
ROWLEY and WATKINS, JJ.

MEMORANDUM

Appellant, Stanley Glickstein, was arrested on September 23, 1982 and charged with Bribery in Official and Political Matters, Commercial Bribery and Breach of Duty to Act Disinterestedly.

On September 20, 1982, after a preliminary hearing the charge of Commercial Bribery and Breach of Duty to Act Disinterestedly were dismissed, but a prima facie case was found as to the remaining charge of bribery.

On October 5, 1982, an information charging defendant with Bribery in Official and Political Matters was filed.

On March 18, 1983, at a pre-trial hearing the Commonwealth requested a jury trial and opposed the defendant's request for a non-jury trial. The court granted the Commonwealth's Petition for a jury trial and the case was assigned to an out of town judge, the Honorable John A. Cherry.

On May 9, 1983, trial by jury was commenced before Judge Cherry and the appellant was convicted on the charge of Bribery in Official and Political Matters on May 12, 1983. Following trial, defense counsel filed post-trial motions which were argued and denied on December 12, 1983. Appellant was then sentenced to an eleven and one-half (11 +1/2) to twenty-three (23) months imprisonment and fined $5,000.00.

Appellant raises the following issues on appeals:

* * *

Does the trial court's failure to charge the jury as to defendant's theory of the cases and its failure to answer the jury's questions constitute reversible error?

* * *

Next appellant contends that the trial court erred in failing to properly charge the jury and in failing to adequately answer the jury's questions.

This claim is also without merit. We find that the trial court's opinion adequately disposes of the issues concerning the charge to the jury and answers the jury's questions. Upon a review of this opinion we conclude that the trial court did not commit reversible error.

APPENDIX C

COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY
CRIMINAL DIVISION
OCTOBER TERM. 1982
NO. 198
BRIBERY IN OFFICIAL AND POLITICAL MATTERS

COMMONWEALTH OF PENNSYLVANIA

V.

STANLEY GLICKSTEIN

BY: CHERRY, J.

OPINION

The defendant, Stanley Glickstein, an Assistant Chief Court Crier with the Philadelphia Court of Common Pleas, was arrested on September 23, 1982 and charged with Bribery in Official and Political Matters and Commercial Bribery and Breach of Duty to Act Disinterestedly.

On September 30, 1982 after a preliminary hearing before the Honorable Meyer C. Rose, the charge of Commercial Bribery and Breach of Duty to Act Disinterestedly was dismissed, and the Commonwealth proceeded to trial on the remaining charge.

On May 9, 1983 trial by jury commenced before the Honorable John A. Cherry. The jury found the defendant guilty of the charge of Bribery in Official and Political Matters on May 12, 1983. Following trial, defense counsel filed post verdict motions and on December 12, 1983 the Honorable John A. Cherry heard argument on the motion. The defendant's post verdict motions are presently before us for determination.

* * *

In charging the jury the trial court is free to use its own form of expression; the only issue is whether the area of law is adequately, accurately, and clearly presented to the jury. *Commonwealth v. Porter, supra.* In evaluating a challenge to the correctness of a jury charge, the charge must be read and considered in its entirety and it is the general effect of the charge that controls. *Commonwealth v. McNeal, supra.*

Defendant contends that the trial court's charge was erroneous in two areas:

1) The trial court erred in failing to instruct the jury as requested by defense counsel that if they were to find the defendant committed an offense other than the one charged, they must return a finding of not guilty.

In reviewing a trial court's instructions to the jury, an appellate court must consider the entire charge and its general effect controls. *Commonwealth v. Hawkins,* Pa. Super. , 441 A. 2d 1308 (1982).

In the instant case, the defendant was charged with only one crime, Bribery in Official and Political Matters, 18 Pa. C.S. Section 4701. In discussing the court's charge, defense counsel agreed that the crime charged was the only crime that a verdict could be rendered on. (N.T. 409). To have given the requested instruction would have generated confusion as to the elements of various other crimes which were not at issue in the present case.

Defense counsel also requested a charge on the crime of Commercial Bribery, 18 Pa. C.S. Section 4108. While the elements of this crime are similar to the elements of Bribery under 18 Pa. C.S. Section 4107, it is the latter crime that was charged, tried and on which a proper verdict could be reached.

A trial judge has a duty to clarify the relevant issues so that the jury may comprehend the questions they are to decide and not only to state to the jury the correct principles of law applicable to the pending case. *Commonwealth v. Davison,* 243 Pa. Super. 12, 364 A. 2d 425 (1976). The defendant was charged with only one offense, thus to instruct the jury as to another offense would have led to irrelevant considerations, especially as defense counsel himself stated that defendant could not be found either guilty or not guilty of commercial bribery. (N.T. 408).

The defendant next asserts that the trial court should have instructed on the offense of Extortion, 18 Pa. C.S. Section 4702.

There is no duty on a trial judge to charge upon law which has no applicability to the presented facts. *Commonwealth v. Hawkins, supra.* In charging a jury, the judge may not interject improper issues. *Id.* The crime of Extortion was not in issue in the case at bar, nor can it be considered as an included offense of the crime with which the defendant was charged. Therefore, the defendant was not prejudiced by the trial court's failure to give the jury a charge on Extortion.

2) The trial court erred in failing to properly answer the questions asked by the jury, and in failing to clear up the issues addressed by the jury's questions. (N.T. 529-547).

The defendant's challenge herein, centers on a series of questions that the jury submitted to the court during the course of their deliberations. The relevant questions are as follows:

> "' Is person C permitted legally to offer to person D a gift in gratitude for services rendered in political matters or official?
>
> Is person D. permitted legally to accept a gift offered in gratitude for services rendered as long as not solicited?
>
> If A pressures B into delivering money, is A guilty of bribery or extortion?
>
> If A is guilty of extortion . . . and also accepts money, is A guilty of bribery also?
>
> Is the statement on which we are to vote "guilty" or "not guilty" meant to be the definition of bribery? That is, is bribery defined as "soliciting or agreeing to accept or accepting" money for "official and political matters"? Is it possible to receive money after the service is rendered in gratitude as a gift?'" (N.T. 539-542).

The defendant contends that the trial court did not adequately explain the jury's first two questions regarding gifts. This contention is without merit as evidenced by the record. After defining the elements of bribery the court states.

> "Now, if none of those acts preceded the recommendation, as in this case, none of those, and then a gift is later made by virtue of the gratitude that the person wants to express for the receipt of the favor, that's not illegal. That is a gift. (N.T. 540).

The defendant's next two contentions are also without merit, and have been discussed previously within.

It must be noted, however, that the trial court clearly instructed the jury that the sole issue before them was the bribery charge and extortion was not a part of the case. (N.T. 541).

As to defendant's argument that the trial court failed to instruct the jury as to defendant's mens rea, the defendant failed to raise this issue or request any instructions in this area at trial. In any event, defendant's assertion of error is without merit. The trial court's charge included reading verbatim the relevant portions of the statute involved in this case and explaining the specific charge against the defendant (N.T. 488-489). The charge went on to define the elements of bribery that must be proven in order to find the defendant guilty:

> Now, Members of the Jury, in order to find the defendant guilty of bribery you must be satisfied that the following two elements have been proven by the Commonwealth beyond a reasonable doubt as I will be defining reasonable doubt for you:
>
> First, that the defendant accepted from Velva Daniels the money which has been alleged to have been paid to him.

COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY
CRIMINAL DIVISION
OCTOBER TERM, 1982
No. 198
BRIBERY IN OFFICIAL AND POLITICAL MATTERS

COMMONWEALTH OF PENNSYLVANIA

VS.

STANLEY GLICKSTEIN

ORDER

AND NOW, this 12th day of December, 1983, upon consideration of defendant's Post Verdict Motions, and after hearing in open Court, it is hereby ORDERED AND DECREED that said Post Verdict Motions are DENIED.

BY THE COURT:

JUDGE
JOHN A. CHERRY